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Attorneys for Defendants

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

AMERICAN IMMIGRATION COUNCIL,
et al.,) No. 4:20-cv-03266-DMR
Plaintiffs,)
v.)
UNITED STATES CITIZENSHIP AND)
IMMIGRATION SERVICES, *et al.*,)
Defendant.)
) JOINT REQUEST TO CONTINUE
) FURTHER CASE MANAGEMENT
) CONFERENCE;
) ORDER (AS MODIFIED)
)
) Current CMC Date: August 3, 2022
) Time: 1:30 p.m.
)

Plaintiffs American Immigration Council, American Immigration Lawyers Association, and Human Rights Watch (“Plaintiffs”) and defendants United States Citizenship and Immigration Services, United States Customs and Border Protection, and United States Immigration and Customs Enforcement (“Defendants”), by and through their undersigned counsel, hereby STIPULATE and respectfully REQUEST that the Court vacate and continue the Case Management Conference (“CMC”), presently scheduled for August 3, 2022, until October 3, 2022 or as soon thereafter as the Court is available.

This action, filed on May 13, 2020 under the Freedom of Information Act (“FOIA”), concerns four FOIA requests that Plaintiffs directed to Defendants regarding the Migrant Protection Protocols (“MPP”). *See* Dkt. 1. The parties previously submitted a Joint Case Management Statement on September 22, 2021 (Dkt. 43).

STIPULATION AND ORDER

4:20-CV-03266-DMR

1 On January 21, 2021, the Department of Homeland Security suspended new enrollments in the
2 MPP pending further review of the program. On February 11, 2021, DHS announced a plan to process
3 into the United States certain individuals who had been returned to Mexico under MPP and have
4 pending cases before the Executive Office for Immigration Review. On June 1, 2021, the Secretary of
5 Homeland Security made a determination that MPP be terminated. On August 13, 2021, U.S. District
6 Court Judge Kacsmaryk issued a nationwide injunction for the reinstatement of MPP. *See Texas v.*
7 *Biden*, No. 2:21-CV-067-Z, 2021 WL 3603341 (N.D. Tex. Aug. 13, 2021). On December 13, 2021, the
8 U.S. Court of Appeals for the Fifth Circuit upheld the district court’s order. *See Texas v. Biden*, 20 F.4th
9 928 (5th Cir. 2021). On June 30, 2022, the Supreme Court of the United States reversed the Fifth
10 Circuit’s decision and remanded the case for further proceedings, holding that the present
11 administration’s rescission of the MPP constituted a valid final agency action. *Biden v. Texas*, 142 S.
12 Ct. 2528 (2022). In light of this decision, the parties understand that the MPP will not be implemented
13 going forward.

14 The parties have met and conferred and believe that the present case can be resolved in light of
15 the decision in *Biden v. Texas*, but require additional time to come to an agreement. At this point, the
16 parties do not require judicial intervention. The parties previous Joint Case Management Statement
17 (Dkt. 43) remains accurate.

18 Accordingly, the parties request that the CMC scheduled for August 3, 2022, be vacated and
19 continued until October 3, 2022 or as soon thereafter as the Court is available.

20 | SO STIPULATED.

* * *

1 Respectfully submitted,

2 STEPHANIE M. HINDS
United States Attorney

3 Dated: July 26, 2022

4 By: /s/ Michael A. Keough
MICHAEL A. KEOUGH
5 Assistant United States Attorney
Attorney for Defendants

6 Dated: July 26, 2022

7 By: **/s/ David P. Enzminger
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10 Attorney for Plaintiffs

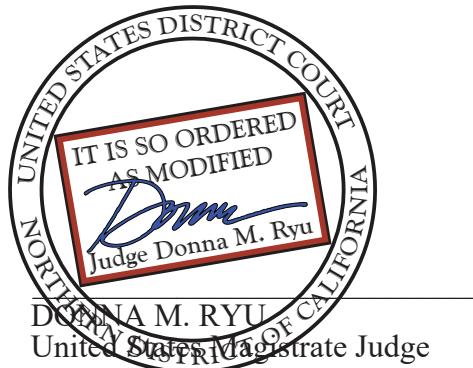
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12 ** Pursuant to Civ. L.R. 5-1(i)(3), the filer of the document
13 has obtained approval from this signatory.

ORDER (AS MODIFIED)

IT IS HEREBY ORDERED that the Further Case Management Conference, presently scheduled for August 3, 2022, is vacated. The Further Case Management Conference is continued to October 5, 2022 at 1:30 p.m. in Oakland, by Videoconference only. Parties shall file an updated joint case management conference statement by September 28, 2022.

IT IS SO ORDERED AS MODIFIED.

Dated: July 27, 2022



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Plaintiffs,)
v.)
UNITED STATES CITIZENSHIP AND)
IMMIGRATION SERVICES, *et al.*,)
Defendants.)
) DECLARATION OF MICHAEL A. KEOUGH

I, Michael A. Keough, declare as follows:

1. I am an Assistant United States Attorney and represent defendant defendants United States Citizenship and Immigration Services, United States Customs and Border Protection, and United States Immigration and Customs Enforcement (“Defendants”) in the above-captioned matter. I am a member in good standing of the State Bar of New York and the bar of this Court. I make this declaration in support of the parties’ Joint Request to Continue Case Management Conference and Proposed Order, filed concurrently herewith. The matters stated in this declaration are true of my own knowledge and, if necessary, I could and would competently testify to them.

2. On July 26, 2022, I met and conferred with counsel for plaintiffs American Immigration Council, American Immigration Lawyers Association, and Human Rights Watch (“Plaintiffs”) via e-

1 mail regarding this action. Among other issues, we discussed continuing the date of the case
2 management conference. On July 26, 2022, I sent Plaintiff's counsel a draft stipulation and proposed
3 order containing this modification and on July 26, 2022, Plaintiff's counsel provided their permission to
4 file it.

5 3. The instant time modification would continue the Case Management Conference,
6 presently scheduled for August 3, 2022, until October 3, 2022 (or as soon thereafter as the Court is
7 available), but would not otherwise affect any date set by the Court. The parties have previously
8 requested that case management conferences be continued on June 22, 2021 (Dkt. 40), September 22,
9 2021 (Dkt. 43), December 20, 2021 (Dkt. 47), and March 18, 2022 (Dkt. 49).

10 I declare under penalty of perjury under the laws of the United States that the above is true and
11 correct. Executed this 26th day of July, 2022, in Oakland, California.

12
13 DATED: July 26, 2022

/s/ Michael A. Keough _____
MICHAEL A. KEOUGH
Assistant United States Attorney